

### **REMARKS**

By this response, claims 1-24, 30 and 31 are pending. Claims 1, 6, 9, 13, 19, 20, 21, 23 and 30 are amended. Claims 17, 18 and 22 are canceled while 25-29 are withdrawn from consideration. All other claims remain as originally presented. Substantively, the Applicant has amended claims 1, 13, 21 and 30 to reflect the notion that a vehicle guard or post includes two movements, especially from a retracted to an extended position and from a collapsed to an upstanding position. As discussed below, the prior art does not teach or hint at this concept and cannot be said to anticipate or render obvious. The Applicant has also amended various limitations in claims 1, 6, 9, 13, 19, 20 and 21 and submits the 35 U.S.C. §112 rejections are overcome.

**Claim 1:** This claim precisely requires that capabilities of the guard that “assists in protecting the vehicle from being damaged during shipping” include “two movements,” especially “a first movement from a retracted position adjacent the first side of the base to an extended position farther away from the first side and a second movement from a collapsed position to an extended upstanding position.” *See, e.g., Applicant’s Figure 1, including 16, 16’, and action arrows E and G.* Stated differently, a guard having two movements between two positions affords a guard with at least four distinct positions.

In contrast, the prior art used in rejecting the claim, at best, is only capable of presenting two positions in a single pivoting action. Namely, Logan’s (U.S. Publication 2002/0139798) side panel 14 singly pivots relative to its base panel 12 thereby affording two side panel positions (flat and upright). Furthermore, because of its rigid, hinged connection, Logan’s side panel is incapable of any further pivoting or other movement.

Williams (U.S. Patent No. 4,991,715), on the other hand, teaches a zippered cover 11 that protects a bicycle on a base 12. In turn, the base includes front and rear mounts 22, 24 for seating the bike frame. Also, a frame 20 on a rear of the base rigidly mounts (via rigid

side members 21) to “protect the bicycle.” *Col. 4, l. 37*. Regarding movement, the rear mount slides in a single axis along a bar 26 potentially “recessed within a slot in base 12.” *Col. 4, l. 9*. Alternatively, the front mount “could be made in the same manner as with the rear mount.” *Col. 4, l. 23*. Other than that, nothing moves, let alone a guard (as in the present invention) between two positions of two separate movements.

For at least these reasons, the Applicant submits the patentability of claim 1.

Administratively, the Applicant has deleted the “such as a motorcycle . . .” phrase from the preamble. This should overcome the Examiner’s indefiniteness rejection.

**Claim 9:** This claim depends from claim 1 and further requires the guard to attach to “an arm mounted to the first side of the base.” In turn, the arm pivots “in a common plane with the base” and does so according to the positions “from the retracted position to the extended position.” Logan, on the other hand, has no such capabilities. Again, Logan simply rotates a side panel 14 from a flat to an upright position relative to a base panel 12.

**Claim 13:** Similar to claim 1, this claim requires a vehicle guard (associated with sides of a base) that has multiple movements. Namely, a guard is required to move “from a retracted position adjacent a corresponding side of the base to an extended position farther away from the corresponding side and movable from a collapsed position . . . to an upstanding position.” Also, the guard moves from the collapsed to upstanding position such that, in the collapsed position, the guard is “in a plane substantially defined by the base.” Again, neither Logan nor Williams teach this multiple degree of movement and cannot then anticipate or render it obvious.

Further, since the Japanese 5-221483 and Clapp (U.S. Patent No. 1,973,372) references relate nearly exclusively to extendable wheels, they remain silent as to vehicle guards, especially multi-positioned guards. In turn, these references do not add to rendering the claims obvious.

Also similar to claim 1, the preamble has been amended to remove “having wheels for engaging the ground.” This should obviate the indefiniteness rejection.

For at least these reasons, the Applicant submits the patentability of claim 13.

**Claim 21:** This claim stands rejected as anticipated by JP 5-221483. By this response, means for protecting the vehicle against damage include “at least one guard per each said first and second elongated sides, each guard pivotally mounted for movement from a retracted position adjacent a corresponding side of the frame to an extended position farther away from the corresponding side and from a collapsed position in the plane to an upstanding position.” Again, the Japanese reference relates primarily to wheels and remains silent relative to vehicle guards. In turn, it cannot anticipate claims extensively requiring a multi-positioned guard. To the extent the reference can even be combined with one of Logan or Williams that teach guards, neither of these references envision such a robustly positionable guard as previously described.

Like the other independent claims, this claim also has its preamble amended to remove language rejected by the Examiner as indefinite.

For at least these reasons, this claim is submitted as allowable.

**Claim 31:** This claim stands rejected as obvious in view of Logan in further view of one of JP 5-221483 and Clapp. By this response, claim 31 has been amended to positively recite a protective assembly including a post that mounts for two pivotal movements between two positions, especially 1) “from a retracted position” adjacent a base side “to an extended position farther away” from the base; and 2) “from a collapsed position to an upstanding position.”

Again, Logan does not teach such robust movement of its side panel 14 relative to its base panel 12. It cannot then anticipate or render obvious, alone or in combination” with the

Application Serial No. 10/701,224  
Amendment dated October 4, 2005  
Reply to Office Action of April 11, 2005

Japanese reference or Clapp. Again, JP 5-221483 and Clapp relate primarily to wheels and care not for protective assemblies including multi-positionable posts.

For at least these reasons, claim 31 is submitted as allowable.

Regarding the remainder of dependent claims not discussed above, they are submitted as being patentable for their direct or indirect dependence on one of the submitted-as-allowable independent claims 1, 13, 21 or 30. If necessary, additional, independent reasons of patentability can be proffered.

The Applicant now submits all claims are in a condition for allowance and requests a timely Notice of Allowance be issued for same. *To the extent any fees are due beyond those authorized in the three month time extension accompanying this response, the undersigned authorizes their deduction from Deposit Account No. 11-0978.*

Respectfully submitted,

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